

In the
Indiana Supreme Court

DANIELE McEVOY and)	Supreme Court No. 18S00-0504-SJ-175
MILDRED McEVOY)	
)	
vs.)	
)	Case No. 18C05-0407-PL-22
JACK STONEBRAKER, ET AL.)	in the Delaware Circuit Court No. 5

ORDER REMANDING JURISDICTION TO TRIAL COURT

Comes now the Clerk of the Delaware Circuit Court, and pursuant to Ind.Trial Rule 79, certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Delaware Circuit Court No. 5 and Judge Peter D. Haviza. The Chronological Case Summary reflects that Judge Haviza was selected to serve as special judge in this case pursuant local rule as provided in Ind.Trial Rule 79(H). This appointment was occasioned by the discontinuation of service of Special Judge Wayne J. Lennington upon his recusal. An appointment under Ind.Trial Rule 79(H) must be accepted unless the selected judge is disqualified, ineligible for service or excused by this Court. The record does not reflect that an exception exists, therefore Judge Haviza should assume jurisdiction of this case.

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Delaware Circuit Court No. 5 and Judge Haviza.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Peter D. Haviza, Randolph Superior Court, 100 South Main Street, 2nd Floor, Winchester, IN 47394-1892; and the Hon. Wayne J. Lennington, Delaware Circuit Court #5, 100 West Washington Street, Muncie, IN 47305-2827, and to the Clerk of the Delaware Circuit Court No. 5.

The Clerk of the Delaware Circuit Court No. 5 is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this _____ day of May, 2005.

Randall T. Shepard
Chief Justice of Indiana